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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,774	03/26/2001	Yoshinori Muzumura	Q63733	5498

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EXAMINER

MCAVOY, ELLEN M

ART UNIT PAPER NUMBER

1764

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/816,774

Applicant(s)

MUZUMURA, YOSHINORI

Examiner

Ellen M McAvoy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are still rejected under 35 U.S.C. 103(a) as being unpatentable over Yabe et al (6,119,813) and Japanese patent (JP-A-36875).

Applicant's arguments filed 21 June 2004 have been fully considered but they are not persuasive. As set forth in the previous office action, Yabe et al ["Yabe"] discloses a lubricant feeder which comprises a solid synthetic resin containing a lubricant. Examples of the synthetic resin include polyethylene, polypropylene, and polymethylpentene (column 3, lines 9-25) which are the same three polyolefin resins set forth by applicant in dependent claims 6-7. The lubricant comprises a white mineral oil as a base oil and an aluminum soap as a thickener. Yabe teaches that the lubricant feeder can be used in bearings, ball screws and oil seals for medical apparatuses, machines for cosmetic production, etc., as well as for food-processing machines. See column 4, lines 49-58. The examiner maintains the position that Yabe meets the limitations of the claims when the lubricant is a grease for food processing equipment or a lubricant for food-processing equipment as set forth in dependent claim 4.

Applicant argues that the examiner does not refer in Yabe to the feature of using the lubricating member at a temperature not higher than 70°C (158°F) as set forth in independent claim 1 which, thus, distinguishes the claimed method over the prior art to Yabe. This is not

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deemed to be persuasive because the lubricating member in Yabe may be used for the very same purpose, that for food processing machines. It is not clear from the reference that such machines normally operate at temperatures as high as 70°C (158°F); indeed, it appears from the disclosure and examples in Yabe that normal operating temperatures for food processing machines may be at room temperature. It is not clear that applicant's invention differs from Yabe.

As also previously set forth, applicant discloses on page 1 of the specification that the Japanese reference discloses a lubricating member for food processing equipment comprising a ultrahigh molecular weight polyolefin and one or more oils selected from the group consisting of liquid paraffin, poly- α -olefin oil, vegetable oil and animal oil. The examiner maintains the position that this meets the limitations of the claims. Applicant argues that that the examiner does not refer in the Japanese reference to the feature of using the lubricating member at a temperature not higher than 70°C (158°F) as set forth in independent claim 1 which, thus, distinguishes the claimed method over the prior art to the Japanese reference. This is not deemed to be persuasive because the lubricating member in the Japanese reference may be used for the very same purpose, that for food processing equipment. It is not clear from the reference that such equipment normally operate at temperatures as high as 70°C (158°F). It is not clear that applicant's invention differs from the Japanese reference.

The rejection of claims 1-7 under 35 U.S.C. 112, second paragraph, is withdrawn in view of applicant's remarks.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

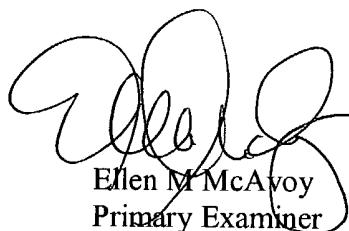
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen M McAvoy whose telephone number is (571) 272-1451. The examiner can normally be reached on M-F (7:30-5:00) with alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ellen M. McAvoy
Primary Examiner
Art Unit 1764

EMcAvoy
September 7, 2004